



人权理事会

第二十五届会议

议程项目 3

增进和保护所有人权——公民权利、政治权利、  
经济、社会和文化权利，包括发展权

适足生活水准权所含适足住房权利以及在这方面不受歧视的  
权利问题特别报告员拉克尔·罗尔尼克的报告

增编

对大不列颠及北爱尔兰联合王国的访问\*

概要

适足生活水准权所含适足住房权问题特别报告员 2013 年 8 月 29 日至 9 月 11 日对大不列颠及北爱尔兰联合王国进行了正式访问。此次访问的目的是按照国际人权标准检查联合王国适足住房权的实现情况。

特别报告员探讨了将住房、土地和规划政策与福利制度住房补贴——提供适足住房的主要手段之一——结合起来的做法。她对这些政策近年来不断削弱及其对特定人口群体的影响表示关切。特别报告员最后提出了一些建议。

\* 本报告概要以所有正式语文分发。报告本身载于概要之后的附件，只以原文印发。



## Annex

*[English only]*

**Report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context on her mission to the United Kingdom of Great Britain and Northern Ireland (29 August–11 September 2013)**

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## I. Introduction

1. At the invitation of the central Government, the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context, undertook an official visit to the United Kingdom of Great Britain and Northern Ireland from 29 August to 11 September 2013. The purpose of the visit was to examine the realization of the right to adequate housing in the light of existing international human rights standards.

2. The Special Rapporteur expresses her gratitude to the central Government and the devolved administrations in England, Northern Ireland, Scotland and Wales for the cooperation and hospitality extended before, during and after her visit. Although she was unable to visit Wales due to lack of time, the Special Rapporteur is grateful for the information it shared with her.

3. The Special Rapporteur visited London, Edinburgh, Glasgow, Belfast and Manchester, where she met with officials; representatives of national human rights institutions and civil society organizations, including housing charities and registered social landlords; academics; and housing and human rights experts. Most importantly, she is thankful for the testimonies heard during the visit and the many letters received thereafter from residents. She wishes to thank all organizations and individuals for the high level of contributions received in preparing the present report.

4. One point must be clarified at the outset of the report. Devolution, a process designed to decentralize some functions of the Government in the United Kingdom, occurred in 1999. The housing and planning functions are devolved; however, devolution applies in different ways in each devolved administration due to historical and administrative differences. There are also central legislative powers, such as those related to welfare or budgetary decisions (reserved powers), which have a direct impact on the housing sector. Equality legislation is devolved in Northern Ireland, but it is not elsewhere. The equality legislation relevant to Northern Ireland is section 75 of the Northern Ireland Act 1998; while this is United Kingdom legislation, it specifically applies to public authorities carrying out functions in relation to Northern Ireland. Insofar as the strict length of this report allows, the Special Rapporteur has tried to use examples of some policies in different administrations to illustrate the existing diversity, while in other cases she has referred to central policies from Westminster affecting the United Kingdom as a whole.

5. The Special Rapporteur recognizes that housing pressures in the south-east of England may have distorting effects on issues discussed in this report, and the report may not always adequately reflect the specificities of each devolved administration. The complexity of the housing sector in each devolved administration would deserve a much longer in-depth report, which is beyond the present report's scope and purpose. The Special Rapporteur outlines some issues which were brought to her attention during and after her visit, raises concerns and offers recommendations from a human rights perspective.

## II. International and national human rights standards

6. The United Kingdom was the first country to ratify the European Convention for the Protection of Human Rights and Fundamental Freedoms, in 1951, and has ratified several international human rights instruments. In carrying out her assessment, the Special Rapporteur is guided by these instruments, in particular in relation to the prohibition of discrimination and the protection of the right to adequate housing, as a component of the right to an adequate standard of living. The Special Rapporteur has considered the

International Covenant on Economic, Social and Cultural Rights, articles 2 and 11; the International Covenant on Civil and Political Rights, articles 2 and 26;<sup>1</sup> the Convention on the Elimination of All Forms of Discrimination against Women, article 2;<sup>2</sup> the Convention on the Rights of the Child, articles 2, 4 and 27;<sup>3</sup> and the Convention on the Rights of Persons with Disabilities, articles 5, 9 (para. 1), 19 and 28.<sup>4</sup>

7. The Special Rapporteur wishes to underscore that the right to adequate housing should not be considered narrowly. It includes guaranteeing various aspects, such as security of tenure, affordability, accessibility, location and cultural adequacy.<sup>5</sup> The Committee on Economic, Social and Cultural Rights has underlined that the right to adequate housing should be ensured to all persons irrespective of income or access to economic resources.<sup>6</sup>

8. Article 2, paragraph 1, of the International Covenant on Economic, Social and Cultural Rights requires State parties to take steps, to the maximum of their available resources, with a view to progressively achieving the full realization of the rights recognized in the Covenant.<sup>7</sup> This provision requires States to take deliberate, concrete and targeted steps towards meeting and sustaining the realization of the rights in the Covenant,<sup>8</sup> even if resources are constrained, such as during economic crises, and prohibits retrogressive measures without full justification and strict consideration of a series of safeguards, especially for the most vulnerable and disenfranchised.<sup>9</sup>

9. The United Kingdom does not have a codified constitution, but human rights form part of the constitutional framework in various ways, perhaps most notably through the Human Rights Act of 1998, which incorporates most of the rights contained in the European Convention on Human Rights into domestic law.

10. The Equality Act of 2010<sup>10</sup> is applicable in England, Scotland and Wales. It includes a public sector equality duty.<sup>11</sup> It replaced the existing race, disability and gender equality duties, and is relevant for all public sector institutions as well as for private sector actors (such as housing associations) in the provision of public services.<sup>12</sup>

### III. Promoting the right to adequate housing

11. Access to adequate housing has been a hallmark of the history of public policies in the United Kingdom. For generations, women and men have progressively given shape to the notion that a dignified life includes access to decent and fair housing, regardless of level

<sup>1</sup> Both Covenants were ratified on 20 May 1976, without reservations.

<sup>2</sup> Ratified 7 April 1986.

<sup>3</sup> Ratified 16 December 1991.

<sup>4</sup> Ratified 8 June 2009.

<sup>5</sup> Committee on Economic, Social and Cultural Rights, general comment No. 4 (1991), para. 8.

<sup>6</sup> *Ibid.*, paras. 7 and 8.

<sup>7</sup> See also Convention on the Rights of the Child, art. 4, and Convention on the Rights of Persons with Disabilities, art. 4, paras. 1 and 2.

<sup>8</sup> Committee on Economic, Social and Cultural Rights, general comment No. 3 (1990), para. 2.

<sup>9</sup> *Ibid.*, paras. 9 and 13. See also Committee on Economic, Social and Cultural Rights, general comment No. 19 (2007); and Ariranga G. Pillay, Chairperson of the Committee on Economic, Social and Cultural Rights, letter to State parties, 16 May 2012, and statement at the sixty-seventh session of the General Assembly, 23 October 2012.

<sup>10</sup> In force since 1 October 2010.

<sup>11</sup> In force since 5 April 2011.

<sup>12</sup> See also the High Court in *Weaver v. London and Quadrant Housing Trust* (2008).

of income or other status. This notion has been translated over time into a combination of housing, land and planning policies designed to provide adequate housing and to address backlogs or poor quality of existing housing stock, and a welfare system that included housing benefits.

12. Early housing policy can be traced back as far as the nineteenth century. In 1909, the first national Housing and Town Planning Act introduced subsidies to build new homes and gave local authorities the power to draw up development plans to implement them. During and after the First World War, housing policy remained high on the agenda. The rent strikes in Glasgow in 1915, for example, led to the first recognition of the Government's role in ensuring affordability via the Rent Restrictions Acts; while the Tudor Walters report of 1918 advocated for lasting standards of construction and a social mix of residents. Remarkably, in the interwar period approximately 4 million homes were built.<sup>13</sup>

13. The post-Second World War period was marked by massive house building to address bomb damage and pre-existing slum conditions. There was consensus around planned public investment in higher quality housing and the allocation of public land for this purpose. As one author points out, "there was a widespread belief that Government had a responsibility for ensuring that the limited resources available in this period of austerity were fairly shared".<sup>14</sup> Other measures included the Town and Country Planning Act of 1947, requiring councils to publish their development plans and to allocate land for residential uses, and linking developments to infrastructure, transportation and access to employment in Great Britain.

14. The Town and Country Planning Act also regulated the provision of compensation and infrastructure through "betterment" or "planning gain" by private developers. The Act was amended on various occasions, including in 1990, with the introduction of specific planning obligations, commonly known as section 106 agreements or planning gain. These agreements have contributed ever since to the United Kingdom provision of affordable housing. The section 106 mechanism seeks to ensure that development meets the requirements of local planning policy, by making it acceptable in planning terms.<sup>15</sup>

15. Housing was also a pillar of the post-war welfare State. In 1942, the Report of the Inter-Departmental Committee on Social Insurance and Allied Services included a series of measures to tackle "squalor". The report argued for State provision of adequate housing to the sick, unemployed, retired or widowed. It gave rise to the National Assistance Act of 1948, setting the basis for a social safety net, including adequate housing. Local councils were ordered to provide suitable accommodation to those who could not provide for themselves. More than one million new homes were built in the five years after the war (50 per cent of them council dwellings) and similar output was maintained for the next two decades, with peaks in the early 1950s and the late 1960s of over 300,000 units per year.<sup>16</sup> Enlarging the social housing stock was a priority, even in times of economic constraints.

16. Between the mid-1940s and the late 1970s, council housing was the main source of affordable homes for low- and middle-income households and remained a central feature of overall housing and planning policy. In some areas, council housing served as a social equalizer, with mixed neighbourhoods even in "high value" inner-urban areas. The use of

<sup>13</sup> Duncan Bowie, "The politics of housing development in an age of austerity" (*Chartist*, 2011), p. 19.

<sup>14</sup> *Ibid.*, p. 26.

<sup>15</sup> See Town and Country Planning Act 1990, Part III, sect. 106.

<sup>16</sup> Matt Griffith and Pete Jefferys, *Solutions for the Housing Shortage* (London, Shelter, 2013), figure 3, p. 13.

public land for social housing provision was one of the mechanisms in place to promote such distribution. There was also a small, but growing, homeownership sector.<sup>17</sup>

17. The late 1970s and early 1980s witnessed a major change in the approach to housing policy. Policies and institutions were put in place to deregulate housing finance systems, privatize council housing, and reduce public expenditure, except for tax breaks to favour individual homeownership.<sup>18</sup> The Housing Act of 1980, aimed at “giving security of tenure”, introduced the “right to buy” as central to this new approach.<sup>19</sup> Essentially, the Right to Buy scheme provided tenants of local councils and other bodies with the opportunity to purchase their homes at market price with a discount, ranging from 33 to 50 per cent, based on various criteria, such as length of occupancy and rent already paid. Approximately 2 million social housing dwellings were sold between 1980/81 and 2012/13, with the bulk of the sales in the 1980s. Approximately 1.8 million were local authority Right to Buy sales.<sup>20</sup>

18. In Northern Ireland, a similar initiative was the House Sales Scheme. Between 1979 and 2003, more than 100,000 properties were sold. In addition, investment in new social housing declined. Between 1983/84 and 1988/89 expenditure on new build halved in real terms. With sales exceeding new builds, the social housing stock fell by 17.3 per cent between 1987 and 1998, while home ownership increased by 34.5 per cent.<sup>21</sup>

19. Council housing stock was transferred to housing associations or registered social landlords as alternative providers for non-market housing. Since the mid-1970s, housing associations (but not local authorities) have been receiving public grants to cover a portion of the capital costs of their housing activities. Until the late 1980s, the grants typically reimbursed 80 per cent, and often up to 100 per cent, of development costs.<sup>22</sup>

20. Throughout the United Kingdom, credit for homeownership was promoted via schemes such as Mortgage Interest Relief at Source (MIRAS (1969 to 2000)), which allowed borrowers tax relief for interest payments on their mortgage.<sup>23</sup> Credit loans for the purchase of homes became the leading housing policy tool, increasingly linking the housing and financial sectors. What lay beneath these policies was the assumption that the housing market would take care of ensuring access to adequate and affordable homeownership for all, with a supporting legal and institutional framework in place. Homeownership through either the Right to Buy scheme or MIRAS was highly subsidized by the State.

21. Homeownership and the financialization of housing had a strong impact on the role of housing in the United Kingdom, transforming it from a social good into a financial asset (A/67/286, para. 11). Some analysts argue that a system of “asset-based welfare” has taken root since the 1990s, acting as an incentive to keep prices high. At the root of this analysis is the notion that the welfare State has been transformed from a system centred on State provision into one in which the individual bears more responsibility for his or her welfare

<sup>17</sup> Ibid.

<sup>18</sup> Joe Doherty et al., *The Changing Role of the State: Welfare Delivery in the Neoliberal Era* (European Federation of National Organisations Working with the Homeless, 2005). See also A/67/286.

<sup>19</sup> See [www.legislation.gov.uk/ukpga/1980/51/introduction](http://www.legislation.gov.uk/ukpga/1980/51/introduction).

<sup>20</sup> Department for Communities and Local Government (DCLG), Live tables on social housing sales, Table 678.

<sup>21</sup> Eoin Rooney and Mira Dutschke, “Case study: right to housing in Northern Ireland”, in *Applying an International Human Rights Framework to State Budget Allocations: Rights and Resources* (London, Routledge, forthcoming (2014)).

<sup>22</sup> Michael E. Stone, “Social housing in the UK and US: evolution, issues and prospects” (2003), p. 21.

<sup>23</sup> HM Revenue and Customs, “Regulatory Impact Assessment: withdrawal of mortgage interest relief and MIRAS”, 2000.

and social security by becoming an active consumer of financial assets.<sup>24</sup> In this context, individual home owners rely on the appreciation of the values of their homes to sustain themselves in old age.

22. The steady increase in prices in the long term, and the volatile conditions in the short run, have led to a reduction in access and affordability for middle- and low-income households, and has exposed some borrowers to increased risks. Some argue that house-price volatility is the result of measures taken since the 1980s by which the Government “pursued economic restructuring through privatisation and financialisation, thus altering the norms of provision. This was particularly dramatic in the area of housing where the rolling back of social housing provision was coupled with the promotion of owner-occupation as the default tenure form.”<sup>25</sup>

23. Consequently, the structural distribution of housing by tenure forms has changed. In 1971, in England, owner-occupied housing represented 52 per cent of dwelling stock; by around 2007, it was close to 70 per cent.<sup>26</sup> Social housing accounted for close to 30 per cent of the total stock in the 1970s, while by 2007 it represented about 18 per cent, and the private rented sector has been steadily expanding since the early 2000s.<sup>27</sup> Similar shifts have occurred in Scotland: in 1981, less than 40 per cent of dwelling stock was owner occupied. By the mid-2000s, this figure had risen to 62 per cent.<sup>28</sup>

#### IV. The current housing situation and measures to address it

24. The Special Rapporteur considers that the United Kingdom faces a critical situation in terms of availability, affordability and access to adequate housing, particularly in some geographic areas. The gap between supply and a much higher demand must not be underestimated. In England, for example, there were around 115,000 completions in 2012, of which 89,000 were by private house builders,<sup>29</sup> against a baseline need estimation of 250,000.<sup>30</sup> Several years of underproduction<sup>31</sup> and lack of sufficient land supply are seen as part of this equation. The lack of housing “is not just a recessionary phenomenon: housing supply has failed to respond adequately to high levels of demand for decades”.<sup>32</sup> Clearly, demand will increase due to population growth, new household formation, and the reality of housing as an asset and financial investment.

25. Against this backdrop of underproduction, it is essential to consider the human beings behind the figures. In human rights-based policymaking, not only the gap between the total supply of and demand for housing should be considered; equal attention must be paid to the individuals and population groups most affected by lack of available homes. Policies must aim to address how housing availability is connected with other aspects of the right, be it affordability, security of tenure, location, habitability or cultural adequacy. In this sense, lack of availability is clearly a core, but not exclusive, criterion against which to

<sup>24</sup> Matthew Watson, “Planning for a future of asset-based welfare?” (2009), p. 43, cited in Mary Robertson, “What goes up mustn’t come down” (2013), p. 6.

<sup>25</sup> Robertson, “What goes up”, p. 1.

<sup>26</sup> DCLG, Live tables on dwelling stock, Table 104.

<sup>27</sup> DCLG, briefing material for the Special Rapporteur’s visit, “Kick-starting a new private rented sector”, 2013.

<sup>28</sup> Government of Scotland, “Housing statistics for Scotland 2013: key trends summary” (2013), p. 9.

<sup>29</sup> DCLG, Live tables on house building, Table 244.

<sup>30</sup> Griffith and Jefferys, *Solutions*, p. 13.

<sup>31</sup> Steve Wilcox and John Perry, “UK Housing Review 2013 briefing paper” (2013), p. 9.

<sup>32</sup> Griffith and Jefferys, *Solutions*, p. 13.

design measures that respond to the housing need of specific population groups, starting with the most disenfranchised but also looking at those who may be rendered vulnerable by action or inaction.

26. In this light, it is clear that social and affordable housing is especially scarce, waiting lists for social rental housing have grown, homelessness rates have increased, and the private rented sector has expanded to become the only option for many despite its insecure tenure. In April 2012, facing a waiting list that had grown by 81 per cent (since 1997) in England,<sup>33</sup> councils noted that they would be compelled to use more private rentals, particularly to provide emergency accommodation. As many as 1.4 million properties — 35 per cent of the private rented sector — do not meet the Decent Homes Standard.<sup>34</sup> In the Special Rapporteur's view, this can be described as a housing crisis.

27. Part of the problem might be the priorities governing the allocation of resources. In 1975, about 80 per cent of public investment in housing went to capital funding for new council homes or maintenance of existing stock. By 2000, however, the bulk of public spending in this area was directed to housing benefits; more recently, a significant proportion of that amount has been going to private landlords.<sup>35</sup> Added to this, the housing stock is no longer viewed as a public resource, to be kept available for various generations. The housing stock sold under the Right to Buy scheme has not been replaced. At the time, local councils received half of the money from the sales, but faced strict capital controls, making it difficult to use the money to replace homes that were sold.

28. From 1997 to 2012, median house prices in England rose 200 per cent, while median full-time earnings rose just 55 per cent.<sup>36</sup> Indeed, prices have increased at a rate double the European Union average for the last 30 years (2.45 rather than 1.1 per cent per year).<sup>37</sup> According to at least one source, a minimum of 1.5 million homes need to be built between 2015 and 2020, not only to address backlog, but also, importantly, to tackle affordability in the sector.<sup>38</sup>

29. The Barker review of 2004 had warned about negative impacts of housing market volatility, whereby higher house prices tend to favour older generations at the expense of younger, and where “the wealth gap between home owners and others is widening”.<sup>39</sup> Currently, one in five households in the United Kingdom cannot meet their housing costs, and require State support. One million out of 5 million claims for housing benefits are submitted by working families. There are over 1.8 million households on the register for social housing and more than 650,000 households living in overcrowded conditions, and the cost of privately renting homes has risen by 37 per cent in the past five years.<sup>40</sup>

30. The credit crunch of 2007 had its peculiarities in the United Kingdom. Although housing prices dropped in some areas — the immediate aftermath of the financial crisis — by 2010 they had recovered. Indeed, the central features of the credit crunch were falls in

<sup>33</sup> DCLG, Live tables on rents, lettings and tenancies, Table 600 (December 2012).

<sup>34</sup> TPAS (Tenant Participation Advisory Service), “Written submission to the All Party Parliamentary Group for the Private Rented Sector: how the sector should be regulated” (2013), para. 2.2.

<sup>35</sup> Andy Hull and Graeme Cooke, “Together at home – a new strategy for housing”, Institute for Public Policy Research (2012), pp. 7 and 75.

<sup>36</sup> DCLG, Live tables on housing market and house prices, Table 586.

<sup>37</sup> Robertson, “What goes up”, (footnote 24) p. 11.

<sup>38</sup> Policy Exchange, *Taxing Issues? Reducing Housing Demand or Increasing Housing Supply* (London, 2013), pp. 4 and 58.

<sup>39</sup> Kate Barker, *Review of Housing Supply: Final Report – Recommendations* (2004), p. 3.

<sup>40</sup> National Housing Federation (NHF) position paper, 28 August 2013, prepared in the context of the Special Rapporteur's visit.

transactions, lending and building. As one author notes, “the housing crisis in the UK has taken the form of a crisis of supply and affordability: as tighter credit conditions have reduced the pool of those able to access mortgages, fewer people have been able to afford a suitable property to purchase”.<sup>41</sup>

31. A combination of measures by the Government, the Bank of England and lenders kept arrears and repossession levels low during the financial crisis. These measures include the Support for Mortgage Interest regime, a funded mortgage rescue scheme to help owners remain as tenants instead of being evicted; low bank base rates; increased openness to loan modifications; extended forbearance; and the Funding for Lending Scheme. The Special Rapporteur welcomes these important measures; however, she suggests caution for the near future, as some of the measures are temporary and will end shortly, which in turn might lead to increases in repossession levels by 2015. Northern Ireland, especially Belfast, has seen the highest number of mortgage defaults and repossessions by banks, partially due to the more difficult economic situation and higher levels of unemployment.<sup>42</sup>

32. The private rented sector is growing steadily. Between 1981 and 2011/12, the number of households in that sector doubled from 1.9 million to 3.8 million.<sup>43</sup> Different household types are housed in the private rented sector, including an increasing number of households with children, and young people. Weak security of tenure is often the rule, with typical contracts lasting 12 months, after which tenants can be evicted or confront price hikes. The law permits longer tenancies, but this is not standard practice. One source notes that, due to the nature of the assured shorthold tenancies that operate in England, tenants often find themselves with very few rights and little security when it comes to their tenancy.<sup>44</sup> Twenty-six per cent of homelessness acceptances were triggered by the loss of an assured shorthold tenancy — the leading reason for people losing their home.

33. The regulation of the private rented sector varies across the United Kingdom. In England, the Government argues that regulation may lead to disinvestment by landlords, decreasing the supply of housing for rent. A range of different regulations exists for landlords (for example, fire and gas safety provisions), but these are difficult to enforce as tenants may fear becoming subject to retaliatory eviction if they complain.<sup>45</sup>

34. For many, private tenancy is the only option. However, there are significant problems, such as insecurity of tenure, poor management practices and discrimination against specific population groups by landlords and letting agents.<sup>46</sup> In areas of high demand, like London, these problems can be severe.<sup>47</sup> The recent release of a draft tenants’ charter is a positive step towards more information and protection for tenants.<sup>48</sup>

<sup>41</sup> Robertson, “What goes up”, p. 1.

<sup>42</sup> See Northern Ireland Courts and Tribunal Services, “Mortgages: actions for possession, July–September 2013 (provisional figures)”, November 2013.

<sup>43</sup> DCLG, *English Housing Survey: Households 2011-12*, annex, figure 1.1.

<sup>44</sup> TPAS, “Written submission”, para. 4.1.

<sup>45</sup> England and Scotland noted that legislation to regulate the sector is under way.

<sup>46</sup> See, for example, BBC Inside Out investigation, London, October 2013 ([www.bbc.co.uk/news/uk-england-london-24372509](http://www.bbc.co.uk/news/uk-england-london-24372509)).

<sup>47</sup> London Assembly, Housing and Regeneration Committee, Greater London Authority, *Rent Reform: Making London’s Private Rented Sector Fit for Purpose* (2013), p. 23.

<sup>48</sup> DCLG, “Draft tenant’s charter: guidance note for discussion” (2013).

## A. Housing policies and planning reforms

35. In England, several aspects of the planning system underwent reform that had as its objective addressing obstacles that discouraged or stalled development. This included a new National Planning Policy Framework (2012); amendments made in 2013 to section 106; and measures introduced through the Localism Act (2011).<sup>49</sup> The Localism Act sets out a series of measures aimed at shifting power towards local government and communities. The Act abolishes regional strategies, legally required since 2004, which were seen as a centrally driven, bureaucratic and undemocratic approach to development. Local planning authorities are now encouraged to put in place a pro-growth Local Plan; they are also expected to demonstrate a five-year housing land supply, and to grant planning permission swiftly, except in cases where there would be significant adverse impacts.

36. Article 7 of the Growth and Infrastructure Act of 2013 modified the section 106 scheme in England. It was made more flexible through the creation of a right to appeal for developers, with a view to speeding up access to planning permits, allowing for faster completion of new housing units. The changes require a council to assess the viability arguments, to renegotiate previously agreed affordable housing levels, and change the affordable housing requirement or face an appeal.<sup>50</sup>

37. Some would argue that easier access to planning permits, without any sanctions on land speculation, may in fact lead to further land banking, a practice which encourages developers to exercise pressure to receive permits, and then keep land with permits as an asset in itself, rather than developing housing in the short term.<sup>51</sup>

38. Additionally, other initiatives were put in place in England to favour the housing market. One such initiative is the Growing Places Fund, aimed at addressing infrastructure constraints in order to unlock housing development. Another is the release of public land, a policy based on the estimation that about 40 per cent of sites suitable for development are owned by the public sector.<sup>52</sup> The land to be released will be sold to private developers for the highest bid, to deliver housing units. Once land has been released, the Local Planning Authority will determine the type of residential developments to be built. There is no conditionality to prioritize affordable housing in response to the pressing needs in the lower end of the spectrum.

39. A package to stimulate the housing market and the economy through Government guarantees for equity was launched. To help people gain access to mortgage finance, the Government has introduced three schemes: the New Buy Guarantee Scheme; Help to Buy equity loans; and Help to Buy mortgage guarantees (available across the United Kingdom).<sup>53</sup> Some critics have noted that these measures may fuel a house-price bubble, undermining the Government's aim of increasing access to housing.

40. The Right to Buy (for council homes) and Right to Acquire (for housing association homes) schemes are also in place, allowing social housing to be sold to sitting tenants. Right to Buy applies to secure tenants who have had a public sector landlord. In England, since 2012, discounts under the Right to Buy scheme can go as high as 75,000 pounds, and since March 2013, as high as 100,000 pounds in London. The situation varies: in Wales, for

<sup>49</sup> See DCLG, *A Plain English Guide to the Localism Act* (2011).

<sup>50</sup> See [www.pas.gov.uk/3-community-infrastructure-levy-cil-/journal\\_content/56/332612/4090701/ARTICLE](http://www.pas.gov.uk/3-community-infrastructure-levy-cil-/journal_content/56/332612/4090701/ARTICLE).

<sup>51</sup> Kathleen Kelly, "Taxing question", November 2013 (<http://m.insidehousing.co.uk/6529375.article?mobilesite=enabled->).

<sup>52</sup> DCLG, "Accelerating the release of public sector land: update, overview and next steps" (2011), p. 6.

<sup>53</sup> See <https://www.gov.uk/affordable-home-ownership-schemes>.

instance, the maximum discount available is 16,000 pounds, and in Northern Ireland it is 24,000 pounds, with both administrations requiring a qualifying period of five years.

41. In July 2013, the government of Scotland announced its intention to end Right to Buy for new tenants of social housing from 2017 as part of a new Housing Act that was introduced in November 2013. When deciding, ministers argued that:

While the [right to buy] has provided new options for households over the last 30 years, the costs of this policy will now fall on future generations. The transfer of hundreds of thousands of properties out of the social housing sector has decreased our social housing stock and places increasing pressures on councils and housing associations. It has also had a profound and detrimental effect on some communities, with less desirable areas now even more marginalised. At the same time, many of those who exercised their right to buy have struggled to meet the costs of home ownership.<sup>54</sup>

42. In parallel to these measures, in England grant funding for social housing has been cut by about two thirds. Housing associations are having to supplement subsidies with private finance, through guarantee schemes provided by the Government (the Affordable Homes Programme). To repay the private funding, providers of affordable homes will have to increase the rents for new social tenants; rents are now allowed to reach 80 per cent of market rents. Although the Government considers the increase in the rents an incentive for landlords to invest in housing, this approach has the potential to create other problems, including reduced affordability and increased reliance on housing benefit. An associated part of the Affordable Homes Programme has an impact on security of tenure for new social tenants (or existing tenants when they move) in England: instead of a lifetime tenancy, they may be offered tenancies for as few as two years.<sup>55</sup>

43. Addressing homelessness has also been part of the history of legislation and policy in the United Kingdom. Of note, the Homelessness etc. (Scotland) Act of 2003 changed the processes through which local authorities deal with homelessness, and set a target to end the test of priority need in access to housing by the end of 2012, an approach not found elsewhere. As the Scottish Human Rights Commission notes, “this target was seen as an unprecedented commitment and has been interpreted, including by the Scottish Government itself, as a commitment to an enforceable right to housing by the end of 2012”.<sup>56</sup> According to a project carried out by the Commission, participants were generally positive about the change brought about by the Act, despite doubts about the targets being met by the end of the year. Some challenges identified included ensuring the availability and provision of suitable accommodation for older persons and persons with disabilities.

## **B. Welfare reform**

44. The Welfare Reform Act of 2012, adopted by the Westminster Parliament as part of its fiscal austerity measures, contains measures directly affecting the right to adequate housing. Most measures apply across the United Kingdom; some do not apply in Northern Ireland. Due to the strict limit of this report only three aspects are discussed below.

45. It is crucial to underscore the context of these reforms. The already acute situation affecting middle- and low-income households is reflected in the lack of sufficient social housing and an increase in homelessness; increasing unemployment; and rising levels of in-

<sup>54</sup> Scotland, “The future of Right to Buy in Scotland: consultation report” (2013), para. 3.1.

<sup>55</sup> Information provided by the Building and Social Housing Foundation (October 2013).

<sup>56</sup> Scottish Human Rights Commission, “Getting it right? Human rights in Scotland” (2012), p. 108.

work poverty. According to Oxfam, between 2010 and 2014, total public spending by the United Kingdom will have been cut by 11.5 per cent. Public sector wages have already been frozen and, over the period 2010–2018, 1.1 million public sector jobs are to be cut, with twice as many women as men losing their jobs. Real wages are reported to have fallen by 3.2 per cent, returning to 2003 levels, representing a lost decade for the average worker.<sup>57</sup> More worrisome, in 2011/12, about 13 million people lived in poverty in the United Kingdom; of those, more than half (6.7 million) were in a working family.<sup>58</sup>

### 1. Removal of the spare-room subsidy

46. The removal of the spare-room subsidy is part of the housing-benefits reform and came into force on 1 April 2013, without having been piloted in advance. It is also known as an under-occupancy penalty, and colloquially as a “bedroom tax”. The measure reduces the housing benefit that social sector tenants of working-age receive, based on the number of bedrooms in the property and the composition of the household. The rate of reduction of the eligible rent for the housing benefit varies from 14 per cent per one spare bedroom to 25 per cent for two or more spare bedrooms. A tenant can claim one bedroom for each single adult or couple; a child would be expected to share with one other child of the same gender (if under 16) or regardless of gender (if both are under 10). Additional considerations are taken into account for tenants with disabilities; in cases where external carers provide regular overnight care to a tenant or partner; and for foster carers.<sup>59</sup> In Scotland the government estimates that this reform will affect about 82,000 households, costing them an average of 50 pounds a month, with 80 per cent of those households including an adult with disabilities and 15,500 of the total cases consisting of families with children.<sup>60</sup>

47. Besides the austerity argument of reducing the cost of housing benefits, the Government considered this reform to be a way of allocating housing by size criteria, addressing overcrowding and under-occupancy, and introducing greater fairness between private and social renters. From the start, numerous concerns were raised by housing experts, charities, housing associations and councils. For example, the National Housing Federation remarked that many landlords support people to downsize from their property to free up badly needed family-size homes. It also noted, however, that the Department for Work and Pensions, in its impact assessment, has admitted there is a mismatch between household size and the availability of suitable homes in the social sector for under-occupying claimants to downsize into. The Federation quotes the Department as saying: “In many areas this mismatch could mean that there are insufficient properties to enable tenants to move to accommodation of an appropriate size even if tenants wished to move and landlords were able to facilitate this movement.”<sup>61</sup>

48. In order to assist with the transition to this policy, the Department for Work and Pensions allocated a ring-fenced fund for all local authorities of the United Kingdom to make discretionary housing payments (DHPs) to those with a temporary or short-term shortfall in housing costs. This fund has been available since 2001, but in response to specific welfare reforms that affected housing benefit entitlements, including the Local Housing Allowance (LHA), the spare-room subsidy and the overall benefit cap, the total amount available has been considerably increased a few times in the last two years,

<sup>57</sup> Oxfam, “A cautionary tale: the true cost of austerity and inequality in Europe” (2013), pp. 8 and 11.

<sup>58</sup> Tom MacInnes et. al., *Monitoring Poverty and Social Exclusion 2013* (Joseph Rowntree Foundation/New Policy Institute, 2013), p. 26.

<sup>59</sup> Welfare Reform Act (2012). See also Department for Work and Pensions, “Housing benefit: under occupation of social housing” (2012).

<sup>60</sup> Scotland, Welfare Reform Committee, “The ‘bedroom tax’ in Scotland” (2013), para. 1.

<sup>61</sup> NHF, “Briefing – Welfare Reform Act 2012: Size Criteria”, p. 7.

including in July 2013. The government in Scotland increased the DHP budget awarded by the Department for Work and Pensions to Scottish local authorities for 2013 and 2014, to the maximum amount allowed. These payments are not designed to, and could never compensate for, the amount of money being removed from benefit entitlement. According to Shelter-Scotland, “the purpose of DHPs has fundamentally changed, and this pot of money is now critical to the successful delivery of the Coalition government’s welfare reforms”.<sup>62</sup>

49. Social landlords and residents in numerous meetings informed the Special Rapporteur that the increase in rent arrears was a key concern raised prior to this reform entering into force. Indeed, some reports already show that rent arrears have risen since April 2013, as people fight to stay in the house they have lived in throughout their lives.<sup>63</sup> In the face of hard choices, between food, heating or paying the rent, many testimonies to the Special Rapporteur placed a strong value on staying in and saving a home. Some mothers in their 50s talked about their homes as the place they had raised their children and lived their lives. Many felt targeted and forced to give up their neighbourhoods, their carers and their safety net. While in principle the policy does not force people to move, the reality of people’s experience, many of whom are working people with no income to spare, left no doubt in the Special Rapporteur’s mind that many have no other option, which has left them in tremendous despair.

50. According to one assessment, three of the original four key assumptions of the Department for Work and Pensions should be re-examined in light of real data available from housing organizations since 1 April 2013, especially the assumption that the policy would reduce the housing benefit expenditure.<sup>64</sup> While the Department’s model predicted savings of 480 million pounds in 2013/14, based on real data and taking into account regional variations in impact, the total savings are reduced by 33 per cent — amounting to 160 million less. In addition, the report argues, the Department’s model does not contain key factors likely to influence the level of savings from the policy, while also not taking into account the additional costs incurred under the policy by local authorities and third-sector organizations, which were not included in the Government’s assessments.<sup>65</sup> In a similar vein, a recent analysis concluded that the factors keeping people in their homes, even if rent arrears build up, far outweigh the impact of the policy. It also noted that at least one third of one-bedroom properties in the social sector are needed to house the homeless and cannot be made available for those individuals who are facing benefit cuts.<sup>66</sup>

51. The nature of this reform and its impact on the human rights of individuals and families has been and continues to be a matter of judicial review. The first reported successful challenge on human rights grounds involved a couple in Glasgow. They suffered a 14 per cent cut to their housing benefit for living in a two-bedroom home. The woman, who has multiple sclerosis, won her appeal against the Glasgow City Council’s decision to

<sup>62</sup> Shelter-Scotland, “Allocating Discretionary Housing Payments (DHPs) in Scotland” (2013), p. 2.

<sup>63</sup> See the NHF statement on the six-month anniversary of the bedroom tax, 30 September 2013. See also Suzanne Fitzpatrick et al., *The Homelessness Monitor: England 2013* (Crisis, 2013).

<sup>64</sup> Rebecca Tunstall, “Testing DWP’s assessment of the impact of the social rented sector size criterion on housing benefit costs and other factors” (Centre for Housing Policy, University of York, 2013), p. 3.

<sup>65</sup> The Government noted that it recognizes that there could be circumstances where the policy generates smaller or greater savings, due inevitably to some uncertainty about how claimants and social landlords will react to this change. Hence, the Government has informed the Special Rapporteur that it has commissioned an assessment by an independent consortium, to monitor the effects of this measure over two years, with initial findings available in 2014 and a final report published in late 2015.

<sup>66</sup> Scotland, Welfare Reform Committee, “The ‘bedroom tax’”, paras. 51 and 84.

apply the deduction for her “spare” bedroom. The case was heard in September 2013 at a First-tier Tribunal and the presiding judge considered that the flat was not under-occupied, since because of her severe disability the woman is not in a condition to share a bedroom with her husband, who must have a bedroom of his own. The judge considered the appellant’s rights in relation to the Housing Benefit Regulations 2006 (as amended) under article 14 of the European Convention on Human Rights read in conjunction with article 1 of Protocol 1 of the Convention.<sup>67</sup>

52. Also in September 2013, another appeal about the reduction in housing benefit on the grounds of under-occupation was won, this time against Westminster City Council. A visually impaired barrister argued that a room in his flat classified as a second bedroom had never been used as one since it was where he stored vital equipment to aid him in his life and work. The judge based his decision on the definition of bedroom: “The term ‘bedroom’ is nowhere defined [in the relevant regulations]. I apply the ordinary English meaning. The room in question cannot be so defined.”<sup>68</sup>

53. On the other hand, 10 claims, consolidated in one case and which form the basis of an appeal listed for January 2014, concern the legality of amendments to the Housing Benefit Regulations. In this case, the High Court found that the changes were not discriminatory in the case of disabled adults and did not breach their human rights. The court did, however, criticize the Government for failing to act early enough to protect disabled children from the effects of the policy.<sup>69</sup>

## 2. Council Tax

54. From April 2013, local councils began to administer a Council Tax scheme for working-age households which were previously exempt. The Council Tax Benefit, which was payable to eligible households in part or total fulfilment of Council Tax was abolished as a national benefit, and the funding, minus 10 per cent, devolved to councils in order to establish localized Council Tax support schemes.<sup>70</sup> Councils were given discretion to decide how much to charge low-income residents; in Southwark, London, for example, previously exempt residents are now required to pay 15 per of their Council Tax bill. The affected include persons with disabilities, war veterans, war widows and carers, who are receiving court summonses that could ultimately result in some of them being sent to prison.<sup>71</sup>

## 3. Local housing allowance

55. This allowance applies to all private tenants except those who have been continuously claiming the housing benefit in the same property since 7 April 2008. The amount of LHA received by a claimant depends on where he or she lives, but the local limits are now based on the 30th percentile of local market rents (previously they were based on the 50th percentile). There is also a maximum weekly rate of LHA based on the number of bedrooms a household qualifies for, ranging from 250 pounds for a one-bedroom property to 400 pounds for a four-bedroom property.<sup>72</sup> Larger properties may still be rented, but only the LHA up to the maximum level for four bedrooms can be claimed. Furthermore, single childless people under 35 or sharing accommodation are entitled to LHA only at the

<sup>67</sup> See the decision of the First-tier Tribunal ([www.govanlc.com/CaseF.pdf](http://www.govanlc.com/CaseF.pdf)).

<sup>68</sup> *Lall v. Westminster City Council*, SC242/13/09744, 20 September 2013.

<sup>69</sup> See [www.judiciary.gov.uk/Resources/JCO/Documents/Judgments/ma-ors-v-sofs-works-pensions-final-230713.pdf](http://www.judiciary.gov.uk/Resources/JCO/Documents/Judgments/ma-ors-v-sofs-works-pensions-final-230713.pdf).

<sup>70</sup> See [www.londoncouncils.gov.uk/policylobbying/welfareforms/counciltax/default.htm](http://www.londoncouncils.gov.uk/policylobbying/welfareforms/counciltax/default.htm).

<sup>71</sup> See [www.theguardian.com/money/2013/oct/18/thousands-court-council-tax](http://www.theguardian.com/money/2013/oct/18/thousands-court-council-tax).

<sup>72</sup> See details at <https://www.gov.uk/housing-benefit>.

shared accommodation rate. Between May 2005 and May 2013, private rental prices increased by 8.4 per cent in England, with the highest increase in London (11.0 per cent) and the East (8.3 per cent), and the least in the North-East (5.2 per cent) and the East Midlands (5.3 per cent).<sup>73</sup>

## V. Impact of the current housing situation and measures on specific population groups

56. Some population groups are particularly affected by the cumulative impact of the various policies and reforms mentioned above. Numerous testimonies corroborated the view that people “felt squeezed from all sides” in their housing and human rights situation.

### A. Low-income individuals and households

57. Poverty alone may not explain the excruciating situation of people in the current housing crisis, except when considering the situation of the most vulnerable and marginalized. For example, a Liverpool study shows that the cost-of-living pressures faced by low-income households, coupled with welfare cuts, mean poor families are increasingly turning to “payday loans” (short-term loans subject to high interest rates) to meet essential housing-related costs, like rent and electricity bills.<sup>74</sup> Even a relatively small change in income or a delay in wages quickly renders poor people fragile, because the margins of financial survival are tight.

58. Poverty also plays a part in falling into rent arrears and possibly eviction. According to the National Housing Federation, only four weeks after the implementation of the spare-room subsidy, in one of the poorest areas (Merseyside), more than 14,000 households fell into arrears with their rent. For 6,000 of these households, it was the first time they had ever fallen behind on their rent. And as there are not enough smaller houses in the social sector, options are not available except at higher costs in the private sector. Many people will stay in their homes, forced to live on less money when living costs and utility bills are rising.<sup>75</sup>

59. Fuel poverty is directly linked to housing conditions and threats to an adequate standard of living. According to the Fuel Poverty Advisory Group, nearly 50 per cent of fuel-poor households are pensioners, 34 per cent contain someone with a disability or long-term illness, and 20 per cent have a child aged 5 or under.<sup>76</sup> Despite such high figures, all six of the main energy firms have already announced a rise in gas and electricity prices, representing an increase in domestic bills ranging from 8.2 to 11 per cent.<sup>77</sup>

60. The link between deteriorating living conditions, low income and the housing crisis became clear to the Special Rapporteur in her discussions with people living in poverty in various locations, and in particular during her visit to the Cyrenians Good Food projects in Edinburgh.<sup>78</sup> Some residents described how they had to severely cut down on the use of their pre-paid cards for electricity and feared the winter. For some the choice was to eat less, or to

<sup>73</sup> Office for National Statistics, “Index of Private Housing Rental Prices: Historical Series” (2013), p. 10.

<sup>74</sup> “Heat or eat? Or take out a loan, do both, and hope for the best?”, *The Guardian* ([www.theguardian.com/society/2013/oct/01/heat-eat-loan-liverpool](http://www.theguardian.com/society/2013/oct/01/heat-eat-loan-liverpool)).

<sup>75</sup> NHF, “The bedroom tax in Merseyside—100 days on” (2013), p. 5.

<sup>76</sup> Fuel Poverty Advisory Group, *Tenth Annual Report 2011-2012*, p. 5.

<sup>77</sup> For more information on fuel poverty see <http://endfuelpoverty.org.uk/>.

<sup>78</sup> Meetings held in London, Belfast, Manchester and Edinburgh.

make sure children would eat first, sometimes only one meal per day. Some could not see alternatives, as they already worked full time but still struggled to make ends meet.

## **B. Homelessness**

61. The Home Truths 2012 survey for East England shows an increase in homelessness of 44 per cent in just two years in the region. Among the contributing factors, the National Housing Federation notes a shortage of homes in the region and the surge in housing prices. The most affected are young people and families. The average house price in 2010 (approximately 195,000 pounds) was nearly 7.5 times the median regional income.<sup>79</sup>

62. Homelessness is of particular concern in relation to children. It generates displacement from schools and health services and may lead to a series of changes from one temporary accommodation into another.<sup>80</sup> Also, the Local Government Ombudsman, in her report “No place like home” (October 2013), noted that the number of complaints linked to homelessness has risen by 14 per cent since 2011, in particular the inappropriate use of bed and breakfast accommodation as a stop-gap, including for families with children.

63. The Special Rapporteur was told how access to legal aid made a difference, for example, for women (and children) fleeing domestic violence, or for young or single people who are on zero-hour contracts who could easily fall into rent arrears and face eviction as a consequence. The Legal Aid, Sentencing and Punishment of Offenders Act 2012, in effect since April 2013, imposed significant cuts in legal aid directly affecting the homeless. Legal aid remains available for those on low incomes at immediate risk of losing their homes, but ceases to exist in the context of family disputes, welfare benefit problems, and early intervention to deal with housing debts before court. The changes to legal aid may also have an adverse impact on access to justice that is incompatible with equality law, since in family law cases following domestic violence, legal aid will be available only if certain evidence is provided — a high evidential threshold for many victims.<sup>81</sup>

## **C. Persons with disabilities and persons who are ill**

64. The plight of persons with disabilities deeply touched the Special Rapporteur. She learned from their strength and welcomed their active engagement in discussing adequate housing from their perspective, and in sharing their testimonies.

65. At the root of many testimonies lies the threat to a hard-won right to live independently. For persons with physical and mental disabilities, as well as for the chronically ill, adequate housing means living in homes that are adapted to specific needs; close to services, care and facilities allowing them to carry out their daily routines; and in the vicinity of friends, relatives or a community essential to leading lives in dignity and freedom. Often, the compounded impact of an acute shortage of adapted and affordable accommodation, combined with other changes to the welfare system, has left them “between a rock and a hard place”: downsizing or facing rent arrears and eviction. Many testimonies refer to anxiety, stress and suicidal thoughts as a result, precisely the type of situations that should be avoided at all costs. Serious concerns about the direct impact of

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<sup>79</sup> DCLG, Live tables on housing market and house prices, Tables 577 and 586.

<sup>80</sup> The Bureau of Investigative Journalism, submission for this report.

<sup>81</sup> Fitzpatrick et al., *The Homelessness Monitor* (footnote 63), pp. 28–29. See also the shadow report submitted by the Equality and Human Rights Commission to the Committee on the Elimination of Discrimination against Women (2013), para. 6.

these reforms were already raised in 2012: “The range of reforms proposed to housing benefit, Disability Living Allowance, the Independent Living Fund, and changes to eligibility criteria risk interacting in a particularly harmful way for disabled people. ... As a result, there seems to be a significant risk of retrogression of independent living and a breach of the UK’s Article 19 [CRPD] obligations.”<sup>82</sup> The Department for Work and Pensions has made available additional funding under the DHP scheme to assist those affected by this measure, but, as noted above, DHPs are time-bound and limited in scope.

66. According to Inclusion Scotland, the government of Scotland estimated that 95,000 Scottish households will be affected by this measure in the first year. In Scotland, 79 per cent of the households expected to be affected (76,000) contain a disabled person. They will lose an average of 13 pounds in housing benefit. Inclusion Scotland noted with concern that persons with disabilities will be among those least able to continue to meet their rent payments.<sup>83</sup>

#### **D. Young people**

67. The scale of need for accommodation for young people — both supported and independent — is significant, and options are often unaffordable, substandard or simply scarce. Young people are facing more barriers than ever in access to housing, partly due to low incomes, the high level of youth unemployment and a lack of access to appropriate housing finance mechanisms. The current estimated shortfall of accommodation for those who cannot afford market rates (both for social rented or private rented accommodation with the use of the housing benefit) is 140,344, rising to an estimated 146,696 by 2021 for households headed by young people.<sup>84</sup> A recent report also notes that service providers have observed that single adults and youth who are homeless have been disproportionately affected by various reforms, including those to the Jobseeker’s Allowance and Employment and Support Allowance.<sup>85</sup>

### **VI. Other issues related to the right to adequate housing**

68. The Special Rapporteur considers that other issues related to discrimination and exclusion on historic and cultural grounds also have a direct impact on the right to adequate housing and raise issues and concerns different to those expressed in the previous sections.

#### **A. Gypsies and Travellers**

69. The lack of appropriate and culturally adequate residential and transit accommodation is often at the root of the stigma and discrimination faced by Gypsies and Travellers in the United Kingdom, underpinning a range of other problems, from access to education or work to appropriate health care or inclusion in community life.<sup>86</sup> There are concerns about the quality and location of sites, such as those under motorways or next to

<sup>82</sup> House of Lords and House of Commons, Joint Committee on Human Rights, *Implementation of the Right of Disabled People to Independent Living* (2012), para. 161.

<sup>83</sup> Submission of Inclusion Scotland for this report.

<sup>84</sup> Anna Clarke and Gemma Burgess, “Mapping the number of extra housing units needed for young people” (Cambridge Centre for Housing and Planning Research, 2012), pp. 2, 30–31.

<sup>85</sup> Fitzpatrick et al., *The Homelessness Monitor*, p. 8.

<sup>86</sup> Equality and Human Rights Commission, submission to the Committee on the Elimination of Racial Discrimination on the eighteenth to twentieth periodic reports of the United Kingdom (2011). pp. 60–70.

sewage works. Many Gypsies and Travellers are caught between an insufficient supply of suitable accommodation on the one hand, and the insecurity of unauthorized encampments and developments on the other. They face a cycle of evictions, linked to violent and threatening behaviour. In order to avoid evictions or to gain access to services, many households reluctantly accept housing in buildings, which is culturally inadequate. They are, however, often housed in the most deprived estates and exposed to more direct and immediate hostility focused on their ethnicity or lifestyle.<sup>87</sup>

70. Under the Housing Act 2004, every local housing authority has an obligation to assess the needs of Gypsies and Travellers residing in their district. While the Localism Act 2011 in England abolished regional planning, such obligation remains in force. Additionally, there is a financial incentive to provide sites under the New Homes Bonus scheme (local authorities retain Council Tax for six years). On March 2012, the Government published the revised Planning Policy for Traveller Sites, to be read in conjunction with the National Planning Policy Framework. It calls on local authorities in England to identify land for sites; promote private Traveller site provision; ensure the reduction of the number of unauthorized developments and encampments, and increase the number of Traveller sites with planning permission. Concerns were expressed that local authorities, often acting under pressure from other residents who stigmatize this community, prefer to discharge their duties under homelessness legislation by offering Gypsies and Travellers bricks-and-mortar accommodation. If an individual refuses the offer, he or she is considered “intentionally homeless”.

71. The Special Rapporteur visited Dale Farm in Basildon District and met with some residents who were present during the October 2011 eviction, including children and adolescents. Images of the eviction, the forceful way in which it was conducted, and the destruction it provoked for the entire community were still vivid in their minds. The Special Rapporteur has been following this situation for years, including prior to the eviction, and has raised her concerns with the Government.<sup>88</sup> However, some members of the community continue to live on the side road, without access to water or sanitation, which they had prior to the eviction, and are in a dire situation.

## **B. North Belfast**

72. The Special Rapporteur is mindful of the complexity of the housing situation in Northern Ireland, and more specifically in some areas of North Belfast. For decades, urban distribution of housing along religious lines and additional needs for space for expansion have been among the reasons for civic unrest. As one analyst notes: “The distribution of the population was tied into systems of political gerrymandering. Thus, political involvement in the allocation of housing inevitably led to discrimination and segregation. This provoked an important reaction in the 1960s: civil rights protesters conducted marches to highlight discrimination in Northern Ireland.”<sup>89</sup> In order to address housing issues which were both a cause and a consequence of conflict, an independent institution — the Northern Ireland Housing Executive — was created in 1971 with the aim of ensuring a fair allocation of housing over sectarian divides. The Northern Ireland Housing Executive has formally committed to promoting shared communities and has made efforts in that direction; however, community tensions and physical barriers, including “peace walls”, persist.

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<sup>87</sup> Ibid.

<sup>88</sup> A/HRC/16/42/Add.1, paras. 65–69.

<sup>89</sup> Rooney and Dutschke, “Case study” (footnote 21).

73. In May 2009, the Committee on Economic, Social and Cultural Rights expressed concern that inequality in housing policy in North Belfast continued to affect the Catholic community (E/C.12/GBR/CO/5, para. 29). The Special Rapporteur recognizes the efforts of the Government to address these challenges. However, during her visit, she observed that long-standing issues related to inequality continue to require concerted efforts. She notes that concerns about differences in the way information is collected, disaggregated and presented have been raised.<sup>90</sup>

### C. Migrants and Roma

74. The Special Rapporteur has also been made aware of the difficulties migrant workers, including those who are citizens of the European Union, face in gaining access to and securing adequate housing. According to recent discussions on a new bill not yet in force, all private landlords will be required to check the immigration status of their tenants, “to prevent those with no right to live in the UK from accessing private rented housing”.<sup>91</sup> Landlords providing rented accommodation to undocumented migrants will incur civil penalties and will be required to review immigration status and provide reports thereon.<sup>92</sup>

75. According to the European Roma Rights Centre, on 19 July, about 80 Romanian Roma families were evicted from locations in Hendon and London. Some of those evicted accepted the offer of a flight back home; others refused and returned to their sites some days after. Allegedly, some belongings were confiscated and some Roma were even arrested. The Centre questions the proportionality and lawfulness of such action under European Union laws and regulations, as the persons who were evicted are citizens of a European Union State.<sup>93</sup>

## VII. Conclusions and recommendations

**76. The Special Rapporteur commends the United Kingdom for its history of ensuring that low- and middle-income households have access to adequate housing and have been protected from insecure tenure forms and poor housing conditions. People in the United Kingdom have a deeply anchored trust in their right to housing, regardless of income or other status.**

**77. Some of the policies and practices that played a role in ensuring access to affordable and well-located housing, facilitating enjoyment of the benefits of mixed neighborhoods in urban centres, and embedding housing in the social safety net serve as inspiration around the world. The Special Rapporteur praises the priority given to social and affordable housing by various Governments over time, including through public funding for specific housing-related policies.**

**78. It is against this background that the present situation ought to be assessed. According to the principle of progressive realization in the right to adequate housing, States are bound to provide an equal or better level of enjoyment of a particular right, taking special care to avoid unjustified retrogressive measures. This principle requires**

<sup>90</sup> See for instance Participation and the Practice of Rights, *Equality Can't Wait* (2013), p. 15.

<sup>91</sup> See

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/249251/Overview\\_Immigration\\_Bill\\_Factsheet.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/249251/Overview_Immigration_Bill_Factsheet.pdf).

<sup>92</sup> The Immigration Bill is expected to be implemented from summer 2014 onwards.

<sup>93</sup> European Roma Rights Centre submission for this report.

that States examine themselves against their own legislation and policies, including in times of austerity, and make every effort to ensure that available resources are distributed fairly, consistently and in a manner that protects the most vulnerable. This principle is not foreign to the United Kingdom, judging from its experience of targeted policies, including in the aftermath of two devastating wars.

79. The Special Rapporteur regrets that some policies and practices which have resulted in the progressive realization of the right to adequate housing are being eroded, and that the structural shape of the housing sector has changed to the detriment of the most vulnerable. She expresses her concern that recent measures are contributing also to an increased vulnerability of those who, until a few years ago, were protected.

80. In light of these conclusions, the Special Rapporteur wishes to make the following recommendations to the central Government and devolved administrations, as applicable:

(a) Assess and evaluate the impact of the welfare reform in relation to the right to adequate housing of the most vulnerable individuals and groups, in light of existing data and evidence; consider whether particular measures are having a disproportionate impact on specific groups; assess whether the overall costs of the implementation of some reforms might outweigh the savings intended, thereby violating the State's obligation to use the maximum of available resources; and consider alternative avenues to achieve similar objectives without affecting the poorest or most vulnerable;

(b) In particular, the removal of the spare-room subsidy should be suspended immediately and be fully re-evaluated in light of the evidence of its negative impacts on the right to adequate housing and general well-being of many vulnerable individuals and households;

(c) Extend and expand grants and subsidies for social housing (for local councils and housing associations), as these have been essential in responding to the housing need of the most vulnerable. More resources and allocations are needed in this area to ensure that new developments address the specific needs of those individuals and households, and that a variety of tenure forms are encouraged, promoted and protected. Special attention must be given to the situation of low-income people and households, especially children;

(d) Ensure that current measures to release public land to tackle lack of availability of housing favour social and affordable housing, including through local councils, housing associations, cooperatives and community land trusts;

(e) Consider the inclusion in planning and land management systems of strict conditions for immediate development of land with planning permits, "build-or-lose" safeguards and priority for affordable housing;

(f) Put in place targeted measures to increase the supply of housing in the private market for those individuals and households who face unaffordable alternatives, especially the young and those in the middle and lower ends of the spectrum;

(g) Increase regulation and enhance information and accountability in relation to the private rented sector; adopt regulatory tenancy protections, including minimum length of contracts, restraints on rent increases and strict limits on eviction; encourage the use of standardized human rights-compliant rental contracts; enhance mechanisms of registration of landlords and letting agents, and establish clear accountability mechanisms to eliminate discrimination in the private rented sector;

**(h) Strengthen efforts to address stigma and discrimination for the Gypsy and Traveller communities in relation to the wider spectrum of rights, starting with the recognition that cultural adequacy in housing is a pillar for inclusion, and that legislation and policy are not enough to overcome local obstacles;**

**(i) Put in place additional efforts to address challenges to overcome persistent inequalities in housing in North Belfast. For this purpose, active, free and meaningful participation of all in decisions made about housing should be promoted, including in relation to the collection of official data, that should be disaggregated, open and accessible to all;**

**(j) Promote and protect the right to adequate housing without discrimination on any grounds; in particular, refrain from establishing mechanisms that can result in indirect discrimination against migrants or Roma in access to adequate housing.**

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